## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE CHATTANOOGA DIVISION

MARTHA L. WARREN, INDIVIDUALLY	§	
AND AS TRUSTEE OF THE BROOKS &	§	
OLIVIA BONO IRREVOCABLE TRUST	§	
AND VINCENT BONO	§	
	§	CIVIL ACTION NO
Plaintiffs,	§	
	§	
V.	§	
	§	
LINCOLN BENEFIT LIFE COMPANY	§	
	§	
Defendant.	§	

## **NOTICE OF REMOVAL**

Defendant Lincoln Benefit Life Company ("Defendant") hereby removes this action from the Hamilton County Circuit Court for the State of Tennessee to the United States District Court for the Eastern District of Tennessee, Chattanooga Division, pursuant to 28 U.S.C. §1332, §1441 *et. seq.*, and §1446. The basis for the removal of this action is that there is complete diversity of citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000. In support of removal, Defendant show the Court as follows:

1. On or about March 25, 2011, Plaintiffs Martha L. Warren, Individually and as Trustee of the Brooks & Olivia Bono Irrevocable Trust, and Vincent Bono (collectively "Plaintiffs") filed this action in the Hamilton County Circuit Court for the State of Tennessee. The case was assigned Docket No. 11-C-432, Summons was issued to Defendant on March 25, 2011 and Defendant was served on April 1, 2011. Thirty days have not passed since the date of service; therefore, this Notice of Removal is timely. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 143 L. Ed. 2d 448 (1999) (holding that time within which to

remove is triggered no earlier than date of service). The Plaintiffs thereafter filed an Amended Complaint on April 11, 2011, and Defendant served on April 18, 2011.

- 2. This action is one in which this Court has original jurisdiction under the provisions of 28 U.S.C. §1332 in that it is an action where diversity jurisdiction exists.
- 3. None of the impediments to removal under 28 U.S.C. §1445 are present in this action.
- 4. Plaintiffs are Tennessee residents and/or entities with their principal place of business in Tennessee.
- 5. Defendant is a corporation organized and existing under the laws of the State of Nebraska.
- 6. At no time material to this action were Plaintiffs and Defendant citizens of the same state. Therefore, complete diversity exists in accordance with 28 U.S.C. §1332.
- 7. Plaintiffs claim that the Defendant improperly terminated and failed to reinstate the Plaintiffs' two insurance polices. Plaintiffs claim they were damaged in excess of \$75,000.00. Given that the diversity requirements set forth in 28 U.S.C. §1332(a) are satisfied, removal of this case to federal court is proper.
- 8. In accordance with 28 U.S.C. §1446(a), Defendant has attached as <u>Exhibit A</u> and filed with the Clerk of this Court a copy of all process, pleadings, and orders served upon them.
- 9. Pursuant to 28 U.S.C. §1446(d), Defendant has provided written notice to Plaintiffs and have filed a copy of this Notice of Removal with the Clerk of the Court for Hamilton County Circuit Court, Tennessee, attached hereto as Exhibit B.

WHEREFORE, Defendant Lincoln Benefit Life Company respectfully requests that this Court accept this Notice of Removal and that it assume jurisdiction over this matter for all further proceedings, together with all other relief appropriate under the circumstances.

Respectfully submitted,

## CHAMBLISS, BAHNER & STOPHEL, P.C.

By: /s/ Anthony A. Jackson

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Attorneys for Defendant, Lincoln Benefit Life Company

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served on all counsel of record, as listed below, via certified mail, return receipt requested, and placed into an official depository of the United States Postal Service, on this the 28<sup>th</sup> day of April, 2011.

Mr. Robert D. Philyaw THE LAW OFFICE OF ROBERT D. PHILYAW 101 Palisades Drive Signal Mountail, TN 37377

/s/ Anthony A. Jackson

Anthony A. Jackson